

Union Calendar No. 23

104TH CONGRESS
1ST SESSION

H. R. 925

[Report No. 104-46]

To compensate owners of private property for the effect of certain regulatory restrictions.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 1995

Mr. CANADY of Florida introduced the following bill; which was referred to the Committee on the Judiciary

FEBRUARY 23, 1995

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on February 14, 1995]

A BILL

To compensate owners of private property for the effect of certain regulatory restrictions.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Private Property Protec-*
5 *tion Act of 1995”.*

1 **SEC. 2. RIGHT TO COMPENSATION.**

2 (a) *IN GENERAL.*—The Federal Government shall com-
3 pensate an owner of property whose use of that property
4 has been limited by an agency action that diminishes the
5 fair market value of that property by 10 percent or more.
6 The amount of the compensation shall equal the diminution
7 in value of the property that resulted from the agency
8 action.

9 (b) *DURATION OF LIMITATION ON USE.*—Property
10 with respect to which compensation has been paid under
11 this Act shall not thereafter be used contrary to the limita-
12 tion imposed by the agency action, even if that action is
13 later rescinded or otherwise vitiated. However, if that ac-
14 tion is later rescinded or otherwise vitiated, and the owner
15 elects to refund the amount of the compensation, adjusted
16 for inflation, to the Treasury of the United States, the prop-
17 erty may be so used.

18 **SEC. 3. EFFECT OF STATE LAW.**

19 No compensation shall be made under this Act if the
20 use limited by Federal agency action is proscribed under
21 the law of the State in which the property is located (other
22 than a proscription required by a Federal law, either di-
23 rectly or as a condition for assistance). If a use is a nui-
24 sance as defined by the law of a State or is prohibited under
25 a local zoning ordinance, that use is proscribed for the pur-
26 poses of this subsection.

1 **SEC. 4. EXCEPTIONS.**

2 (a) *PREVENTION OF HAZARD TO HEALTH AND SAFETY*
3 *OR DAMAGE TO SPECIFIC PROPERTY.*—No compensation
4 shall be made under this Act with respect to an agency ac-
5 tion the purpose of which is to prevent an identifiable—

6 (1) *hazard to public health or safety; or*

7 (2) *damage to specific property other than the*
8 *property whose use is limited.*

9 (b) *NAVIGATIONAL SERVITUDE.*—No compensation
10 shall be made under this Act with respect to an agency ac-
11 tion pursuant to the Federal navigational servitude.

12 **SEC. 5. PROCEDURE.**

13 (a) *REQUEST OF OWNER.*—An owner seeking com-
14 pensation under this Act shall make a written request for
15 compensation to the agency whose agency action resulted
16 in the limitation. No such request may be made later than
17 180 days after the owner receives actual notice of that agen-
18 cy action.

19 (b) *NEGOTIATIONS.*—The agency may bargain with
20 that owner to establish the amount of the compensation. If
21 the agency and the owner agree to such an amount, the
22 agency shall promptly pay the owner the amount agreed
23 upon.

24 (c) *CHOICE OF REMEDIES.*—If, not later than 180
25 days after the written request is made, the parties do not
26 come to an agreement, the owner may choose to take the

1 *issue to binding arbitration or seek compensation in a civil*
2 *action.*

3 (d) *ARBITRATION.*—*The procedures that govern the ar-*
4 *bitration shall, as nearly as practicable, be those established*
5 *under title 9, United States Code, for arbitration proceed-*
6 *ings to which that title applies. An award made in such*
7 *arbitration shall include a reasonable attorney's fee and ap-*
8 *praisal fees. The agency shall promptly pay any award*
9 *made to the owner.*

10 (e) *CIVIL ACTION.*—*An owner who does not choose ar-*
11 *bitration, or who does not receive prompt payment when*
12 *required by this section, may obtain appropriate relief in*
13 *a civil action against the agency. An owner who prevails*
14 *in a civil action under this section shall be entitled to, and*
15 *the agency shall be liable for, a reasonable attorney's fee*
16 *and appraisal fees. The court shall award interest on the*
17 *amount of any compensation from the time of the limita-*
18 *tion.*

19 (f) *SOURCE OF PAYMENTS.*—*Any payment made*
20 *under this section to an owner, and any judgment obtained*
21 *by an owner in a civil action under this section shall, not-*
22 *withstanding any other provision of law, be made from the*
23 *annual appropriation of the agency whose action occa-*
24 *sioned the payment or judgment. If the agency action re-*
25 *sulted from a requirement imposed by another agency, then*

1 *the agency making the payment or satisfying the judgment*
2 *may seek partial or complete reimbursement from the ap-*
3 *propriated funds of the other agency. For this purpose the*
4 *head of the agency concerned may transfer or reprogram*
5 *any appropriated funds available to the agency. If insuffi-*
6 *cient funds exist for the payment or to satisfy the judgment,*
7 *it shall be the duty of the head of the agency to seek the*
8 *appropriation of such funds for the next fiscal year.*

9 **SEC. 6. DEFINITIONS.**

10 *For the purposes of this Act—*

11 *(1) the term “property” means land and in-*
12 *cludes the right to use or receive water;*

13 *(2) a use of property is limited by an agency ac-*
14 *tion if a particular legal right to use that property*
15 *no longer exists because of the action;*

16 *(3) the term “agency action” has the meaning*
17 *given that term in section 551 of title 5, United*
18 *States Code, but also includes the making of a grant*
19 *to a public authority conditioned upon an action by*
20 *the recipient that would constitute a limitation if*
21 *done directly by the agency;*

22 *(4) the term “agency” has the meaning given*
23 *that term in section 551 of title 5, United States*
24 *Code;*

1 (5) the term “State” includes the District of Co-
2 lumbia, Puerto Rico, and any other territory or pos-
3 session of the United States; and

4 (6) the term “law of the State” includes the law
5 of a political subdivision of a State.

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